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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,060	09/26/2001	Anthony Baerlocher	406470	1422

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EXAMINER
ENATSKY, AARON L

ART UNIT	PAPER NUMBER
3713	

DATE MAILED: 09/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application N .	Applicant(s)
	09/964,060	BAERLOCHER, ANTHONY
	Examiner	Art Unit
	Aaron L Enatsky	3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondenc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 July 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13 and 15-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13 and 15-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Amendment

Examiner acknowledges receipt of amendment on 7/11/03. The arguments set forth in the response are addressed herein below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,089,976 to Schneider et al. ("Schneider") in view of US Patent No. 6,174,235 to Walker et al. ("Walker"). Schneider teaches a gaming apparatus with a wager receipt mechanism, a player interface, a payout device, and a processor to control the game machine function (Fig. 2 and 6). The program displays numerous occluded values, which are revealed through player selection of the indicia. When two occluded values are revealed as matching, a pay value is awarded to a player (3:1-16). The second indicia that are initially occluded have shared commonalities and are substantially identical as a match is made when two of the same amounts are revealed. Schneider also teaches separate display screens that can be used to show pay value separate from a first and second value (Fig.1 ref 25, 42 and 4:47-63). Schneider does not however teach randomly associating pay values to selection indicia. Walker teaches a player

selection game in a wagering game machine that provides player selected elements that obscure payout values (Abstract). Walker also teaches player selectable indicia and values are randomly associated by a processor (7:25-49), and one particular game embodiment can involve a player memory type game. As Schneider and Walker are related as gambling games with player selectable elements that use a memory type matching game, one would motivated to modify Schneider to use random indicia and value association as another means to determine user win possibilities.

Claims 7-8, 13, 15, 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider in view of Walker as applied to claims 1-6, 18 above, and further in view of US Patent No. 6,033,037 to Vancura ("Vancura"). Schneider in view of Walker teaches the claimed limitations as discussed above, but does not teach the occluded indicia as a multiplier, an end bonus indicator, and additional selection attempts. Vancura teaches a gambling game that provides multipliers that may be generated randomly by the gaming machine processor (13:52-14:12). The purpose of the multipliers is to substantially increase a potential player's winnings. One would be motivated to modify Schneider in view of Walker to include the revealed prize as a multiplier as the multiplier would serve to enhance the entertainment value of the bonus game. A player's entertainment value and motivation to play the game would be increased if a player knew that a bonus payout might be substantial with a payout multiplier. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a multiplier as a prize to increase the game entertainment value.

In regard to an end bonus indicator and additional selection attempts, Vancura teaches a game that provides end game indicators described as an L symbol (Fig. 4). The game ends after receiving a predetermined number of end game symbols (14:43-47), where the number of allowable accrued end game indicators is a variable value (14:51-67). In one instance where the allowable accumulation of end game indicators is represented by N, where N=2, a player can receive a lose symbol and continue the game. Thus, in the case of N=2, receiving another end game indicator allows for at least one additional game move to create a matching pair. One would also be motivated to modify Schneider in view of Walker to include additional game play after the occurrence of an end bonus game as taught by Vancura, and furthermore allow a player to play until another match is made, thus providing a player an equivalent of a consolation prize. The addition of a consolation winning would allow players to feel that they can walk away with some winnings, instead of nothing, which would increase a player's perceived entertainment value, thus generating more interest in the game.

In regard to claim 23, Schneider in view of Walker in view of Vancura teaches the claims limitations as discussed above, but does not teach selecting a second group indicia. However, it is long considered to be within the capabilities of one of ordinary skill in the art to duplicate that which is known. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow for a player selection of a plurality of groups of matching indicia, which allows a player to potentially increase winnings.

In regard to claim 22, Schneider in view of Walker in view of Vancura teaches the claims limitations as discussed above including multipliers, but does not teach a multiplier of 1. However Walker teaches that an indicia selection can reveal a zero-value item, while not a

multiplier, is equivalent to providing a player a multiplier of 1 (Walker Fig. 5). Neither occluded values provides an increase to a players winnings, therefore it would have been obvious to substitute a zero value item with a x1 multiplier.

Claims 9-12, 16-21, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider in view of Walker in view of Vancura as applied to claims 1-8, 13, 15, 18, and 22-23 above, and further in view of GB Patent No. 2,144,644 to Barrie ("Barrie"). Schneider in view of Walker in view of Vancura teaches the limitations as discussed above, but does not teach providing a game stopper indicia as one of the occluded indicia. Barrie teaches of a player selectable indicia revealing game that uses a game stopper indicia to indicate that a game has ended (Fig. 4). One would be motivated to modify Schneider in view of Walker in view of Vancura to use the game stopper taught by Barrie as the game stopper would provide enhanced entertainment though game suspense. A player's excitement would be increased for every prize won, knowing that a poor selection was not made. Barrie describes the entertainment as providing a dramatic context of the game (2:69-76).

In regard to claim 11, Schneider teaches that a player continues to select indicia until a match is revealed (2:41-44). This provides for the occurrence of selecting a final remaining indicia signaling the end of the game.

In regard to claim 24, Barrie teaches that occluded selection indicia are randomly assigned award values (1:48-69). Additionally Barrie allows for prizes to be greater from one group to another (1:67-69).

Response to Arguments

Applicant's arguments with respect to claims 1-13, and 15-24 have been considered but are moot in view of the new ground(s) of rejection.

Citation of Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Pat. No. 6,106,393 to Sunaga et al. teaches game result conditions may be randomly selected for a predetermined number of games to provide a greater selection of games, thus enhancing a player's interest in playing more games.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron L Enatsky whose telephone number is 703-305-3525. The examiner can normally be reached on 8-6 M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Aaron Enatsky
September 8, 2003

T. Walberg

Teresa Walberg
Supervisory Patent Examiner
Group 3700